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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66553; File No. SR-NYSEArca-2012-04)

March 9, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing and Trading of Shares of Twenty-Six Series of ProShares Trust II under NYSE Arca Equities Rule 8.200

I. Introduction

On January 6, 2012, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of twenty-six series of the ProShares Trust II under Commentary .02 to NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the Federal Register on January 24, 2012.³ The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade shares (“Shares”) of the following funds (each a “Fund” and, collectively, “Funds”) pursuant to NYSE Arca Equities Rule 8.200, Commentary .02: ProShares UltraPro Australian Dollar, ProShares UltraPro Canadian Dollar, ProShares UltraPro Swiss Franc, ProShares UltraPro Euro, ProShares UltraPro U.S. Dollar, and ProShares UltraPro Yen (collectively, “UltraPro Funds”); ProShares UltraPro Short Australian Dollar, ProShares UltraPro Short Canadian Dollar, ProShares UltraPro Short Swiss Franc, ProShares

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 66180 (January 18, 2012), 77 FR 3532 (“Notice”).

UltraPro Short Euro, ProShares UltraPro Short U.S. Dollar, and ProShares UltraPro Short Yen (collectively, “UltraPro Short Funds”); ProShares Ultra Australian Dollar, ProShares Ultra Canadian Dollar, ProShares Ultra Swiss Franc and ProShares Ultra U.S. Dollar (collectively, “Ultra Funds”); ProShares UltraShort Australian Dollar, ProShares UltraShort Canadian Dollar, ProShares UltraShort Swiss Franc and ProShares UltraShort U.S. Dollar (collectively, “UltraShort Funds”); and ProShares Short Australian Dollar, ProShares Short Canadian Dollar, ProShares Short Swiss Franc, ProShares Short Euro, ProShares Short U.S. Dollar, and ProShares Short Yen (collectively, “Short Funds”). NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts either by listing or pursuant to unlisted trading privileges.⁴ Each Fund is a series of the ProShares Trust II (“Trust”), a Delaware statutory trust.⁵ ProShare Capital Management LLC (“Sponsor”) is the Trust’s sponsor, and Wilmington Trust Company is the Trust’s trustee. Brown Brothers Harriman & Co. (“Administrator”) serves as the administrator, custodian, and transfer agent of the Funds. SEI Investments Distribution Co. (“Distributor”) serves as distributor of the Shares.

The UltraPro Funds seek daily investment results (before fees and expenses) that correspond to three times (+300%) the daily performance, whether positive or negative, of their corresponding benchmark, and the UltraPro Short Funds seek daily investment results (before fees and expenses) that correspond to three times the inverse (-300%) of the daily performance, whether positive or negative, of their corresponding benchmark. The Ultra Funds seek daily

⁴ Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in “Financial Instruments.” The term “Financial Instruments,” as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

⁵ See registration statement on Form S-1, dated December 22, 2011 (File No. 333-178707) (“Registration Statement”).

investment results (before fees and expenses) that correspond to twice (+200%) the daily performance, whether positive or negative, of their corresponding benchmarks, and the UltraShort Funds seek daily investment results (before fees and expenses) that correspond to twice the inverse (-200%) of the daily performance, whether positive or negative, of their corresponding benchmarks. The Short Funds seek daily investment results (before fees and expenses) that correspond to the inverse (-100%) of the daily performance, whether positive or negative, of their corresponding benchmarks (each corresponding benchmark is referred to as a “Benchmark” and, collectively, “Benchmarks”).

Each of the Funds will hold futures contracts on the applicable Benchmark or, in the case of a Benchmark index, futures contracts on such Benchmark index or the Benchmark index components, that are traded on a United States exchange (“Benchmark Futures Contracts”) and, to a limited extent, forward contracts, as described below, to produce the economically “inverse,” “leveraged,” or “inverse leveraged” investment results, as set forth by each Fund’s investment objective.

Each Fund seeks to achieve its investment objective by investing, under normal market conditions,⁶ in Benchmark Futures Contracts. In the event position accountability rules or position limits are reached with respect to a particular Benchmark Futures Contract, the Sponsor may, in its commercially reasonable judgment, cause the relevant Fund to obtain exposure through over-the-counter forward contracts referencing the particular exchange rate, index, or index components, or invest in other forward contracts not based on the particular exchange rate,

⁶ The term “under normal market conditions” includes, but is not limited to, the absence of extreme volatility or trading halts in the futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

index, or index components, if such instruments tend to exhibit trading prices or returns that correlate with the Benchmarks or any Benchmark Futures Contract and will further the investment objective of a Fund.⁷ A Fund may also invest in forward contracts if the market for a specific Benchmark Futures Contract experiences emergencies (e.g., natural disaster, terrorist attack, or an act of God) or disruptions (e.g., a trading halt or a flash crash) to prevent a Fund from obtaining the appropriate amount of investment exposure to the affected Benchmark Futures Contracts directly.⁸

Each Fund will also invest in cash equivalents (such as shares of money market funds, bank deposits, bank money market accounts, certain variable rate-demand notes, and repurchase agreements collateralized by government securities, whether denominated in U.S. dollars or the applicable foreign currency) that serve or will serve as collateral for the investments in futures and forward contracts. The Funds do not currently intend to invest directly in any currency, but may invest directly in U.S. Treasury securities.

The Funds' investments in Benchmark Futures Contracts and forward contracts may involve a small investment relative to the amount of investment exposure assumed and may result in losses exceeding the amounts invested. Such instruments, particularly when used to create leverage, may expose the Funds to potentially dramatic changes (losses or gains) in the value of the instruments and imperfect correlation between the value of the instruments and the applicable Benchmark.

The Funds will not seek to achieve their stated investment objective over a period of time

⁷ To the extent practicable, the Funds will invest in forward contracts cleared through the facilities of a centralized clearing house.

⁸ The Sponsor will also attempt to mitigate the Funds' credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of a counterparty. The Exchange represents that the Sponsor will take various steps to limit counterparty credit risk.

greater than one day because mathematical compounding prevents the Funds from perfectly achieving such results. Accordingly, results over periods of time greater than one day typically will not be a simple multiple (e.g., 2x, 3x, or -1x, -2x, -3x) of the period return of the corresponding Benchmark and may differ significantly.

If an UltraPro Fund (or UltraPro Short Fund) is successful in meeting its objective, its value on a given day (before fees and expenses) should gain (or lose in the case of an UltraPro Short Fund) approximately three times as much on a percentage basis as its corresponding Benchmark when the Benchmark rises on a given day. Conversely, its value on a given day (before fees and expenses) should lose (or gain in the case of an UltraPro Short Fund) approximately three times as much on a percentage basis as the corresponding Benchmark when the Benchmark declines on a given day.

If an Ultra Fund (or UltraShort Fund) is successful in meeting its objective, its value on a given day (before fees and expenses) should gain (or lose in the case of an UltraShort Fund) approximately twice as much on a percentage basis as its corresponding Benchmark when the Benchmark rises on a given day. Conversely, its value on a given day (before fees and expenses) should lose (or gain in the case of an UltraShort Fund) approximately twice as much on a percentage basis as the corresponding Benchmark when the Benchmark declines on a given day.

If a Short Fund is successful in meeting its objective, its value on a given day (before fees and expenses) should gain approximately as much on a percentage basis as the corresponding Benchmark when the Benchmark declines on a given day. Conversely, its value on a given day (before fees and expenses) should lose approximately as much on a percentage basis as the corresponding Benchmark when the Benchmark rises on a given day.

In seeking to achieve each Fund's daily investment objective, the Sponsor will use a

mathematical approach to investing. Using this approach, the Sponsor will determine the type, quantity, and mix of investment positions that the Sponsor believes in combination should produce daily returns consistent with a Fund's objective. The Sponsor will rely upon a pre-determined model to generate orders that result in repositioning each Fund's investments in accordance with its daily investment objectives.

A number of factors may affect a Fund's ability to achieve a high degree of correlation with its Benchmark, and there can be no guarantee that a Fund will achieve a high degree of correlation. While the Funds do not expect that their daily returns will deviate adversely from their respective daily investment objectives, several factors may affect their ability to achieve this correlation. Among these factors are a Fund's expenses, including fees, transaction costs and the cost of the investment techniques employed by that Fund, bid-ask spreads, a Fund's Share prices being rounded to the nearest cent, changes to a Benchmark that are not disseminated in advance, and the need to conform a Fund's portfolio holdings to comply with investment restrictions or policies or regulatory or tax law requirements.

ProShares UltraPro Australian Dollar, ProShares UltraPro Short Australian Dollar, ProShares Ultra Australian Dollar, ProShares UltraShort Australian Dollar, and ProShares Short Australian Dollar ("Australian Dollar Funds")

The Australian Dollar Funds will be designed to track a multiple, the inverse, or an inverse multiple of the daily performance of the Australian dollar spot price versus the U.S. dollar ("AUD/USD"). The Benchmark for each of the Australian Dollar Funds will be the U.S. dollar price of the Australian dollar. The Australian Dollar Funds will use the 4:00 p.m., Eastern Time ("E.T.") Australian dollar exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The

Australian dollar is the national currency of Australia and the currency of the accounts of the Reserve Bank of Australia, the Australian central bank. The official currency code for the Australian dollar is “AUD.” The Australian dollar is referred to in Australia as “dollar.” As with U.S. currency, 100 Australian cents are equal to one Australian dollar. In Australia, unlike most other countries, cash transactions are rounded to the nearest five cents. The most commonly used symbol used to represent the Australian dollar is “A\$.”

As of December 30, 2011, open interest in AUD/USD futures contracts traded on the Chicago Mercantile Exchange (“CME”) was approximately \$11.56 billion. AUD/USD futures contracts had an average daily trading volume in 2011 of approximately 123,006 contracts.

ProShares UltraPro Canadian Dollar, ProShares UltraPro Short Canadian Dollar, ProShares Ultra Canadian Dollar, ProShares UltraShort Canadian Dollar, and ProShares Short Canadian Dollar (“Canadian Dollar Funds”)

The Canadian Dollar Funds will be designed to track a multiple, the inverse, or an inverse multiple of the daily performance of the Canadian dollar spot price versus the U.S. dollar (CAD/USD). The Benchmark for each of the Canadian Dollar Funds will be the U.S. dollar price of the Canadian dollar. The Canadian Dollar Funds will use the 4:00 p.m., E.T. Canadian dollar exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Canadian dollar is the national currency of Canada and the currency of the accounts of the Bank of Canada, the Canadian central bank. The official currency code for the Canadian dollar is “CAD.” As with U.S. currency, 100 Canadian cents are equal to one Canadian dollar.

As of December 30, 2011, open interest in CAD/USD futures contracts traded on CME was approximately \$11.66 billion. CAD/USD futures contracts had an average daily trading

volume in 2011 of approximately 89,667 contracts.

ProShares UltraPro Swiss Franc, ProShares UltraPro Short Swiss Franc, ProShares Ultra Swiss Franc, ProShares UltraShort Swiss Franc, and ProShares Short Swiss Franc (“Swiss Franc Funds”)

The Swiss Franc Funds will be designed to track a multiple, the inverse, or an inverse multiple of the daily performance of the Swiss franc spot price versus the U.S. dollar (“CHF/USD”). The Benchmark for each of the Swiss Franc Funds will be the U.S. dollar price of the Swiss franc. The Swiss Franc Funds will use the 4:00 p.m., E.T. Swiss franc exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Swiss franc is the national currency of Switzerland and Liechtenstein and the currency of the accounts of the Swiss National Bank, the central bank of Switzerland. The official currency code for the Swiss franc is “CHF.” Each Swiss franc is equal to 100 Swiss centimes.

As of December 30, 2011, open interest in CHF/USD futures contracts traded on CME was approximately \$4.99 billion. CHF/USD futures contracts had an average daily trading volume in 2011 of approximately 40,955 contracts.

ProShares UltraPro Euro, ProShares UltraPro Short Euro, and ProShares Short Euro (“Euro Funds”)

The Euro Funds will be designed to track a multiple, the inverse, or an inverse multiple of the daily change in the spot price of the euro versus the U.S. dollar (“EUR/USD”). The Benchmark for each of the Euro Funds will be the U.S. dollar price of the euro. The Euro Funds will use the 4:00 p.m., E.T. euro exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The euro is

the official currency of the Eurozone, which currently consists of 17 European states including: Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, and Spain. The euro is managed and administered by the European Central Bank and the European System of Central Banks.

As of December 30, 2011, open interest in EUR/USD futures contracts traded on CME was approximately \$46.12 billion. EUR/USD futures contracts had an average daily trading volume in 2011 of approximately 336,947 contracts.

ProShares UltraPro U.S. Dollar, ProShares UltraPro Short U.S. Dollar, ProShares Ultra U.S. Dollar, ProShares UltraShort U.S. Dollar, and ProShares Short U.S. Dollar (“U.S. Dollar Funds)

The U.S. Dollar Funds will be designed to track a multiple, the inverse or an inverse multiple of the daily performance of their Benchmark, the U.S. Dollar Index (“U.S. Dollar Index” or “Index”).⁹ The U.S. Dollar Index is a geometrically-averaged calculation of six currencies weighted against the U.S. dollar. The six component currencies are the euro, Japanese yen, British pound, Canadian dollar, Swedish krona, and Swiss franc. The component currencies do not have the same weight. The euro has a weighting of 57.6%, the Japanese yen a weighting of 13.6%, the British pound a weighting of 11.9%, the Canadian dollar a weighting of 9.1%, the Swedish krona a weighting of 4.2%, and the Swiss franc a weighting of 3.6%. The U.S. Dollar

⁹ The U.S. Dollar Index was created by the U.S. Federal Reserve in 1973. Following the ending of the 1944 Bretton Woods Agreement, which had established a system of fixed exchange rates, the U.S. Federal Reserve Bank began the calculation of the U.S. Dollar Index to provide an external bilateral trade-weighted average of the U.S. dollar as it freely floated against global currencies. Futures contracts based on the U.S. Dollar Index (“USDIX” or “U.S. Dollar Index futures contracts”) were listed on November 20, 1985, and are now available only on the IntercontinentalExchange (“ICE”) electronic trading platform. Options on the futures contracts began trading on September 3, 1986, and are available both on the ICE electronic trading platform and on the ICE options trading floor.

Index is calculated by Bloomberg in real time approximately every 15 seconds using the spot prices of the Index's component currencies. The price used for the calculation of the Index is the mid-point between the Bloomberg top of the book bid/offer in the component currencies.

In addition to the data on EUR/USD, CAD/USD, CHF/USD, and JPY/USD futures contracts stated herein, as of December 30, 2011, open interest in U.S. Dollar Index futures contracts traded on ICE was approximately \$5.44 billion. U.S. Dollar Index futures contracts had an average daily trading volume in 2011 of approximately 30,341 contracts. Open interest in British pound ("GBP/USD") futures contracts traded on the CME was approximately \$19.59 billion, and GBP/USD futures contracts had an average daily trading volume in 2011 of approximately 116,115 contracts. Open interest in Swedish krona ("SEK/USD") futures contracts traded on the CME was approximately \$16.79 million, and SEK/USD futures contracts had an average daily trading volume of approximately 8 contracts.

ProShares UltraPro Yen, ProShares UltraPro Short Yen, and ProShares Short Yen ("Yen Funds")

The Yen Funds will be designed to track a multiple, the inverse, or an inverse multiple of the daily performance of the Japanese yen spot price versus the U.S. dollar ("JPY/USD"). The Benchmark for each of the Yen Funds will be the U.S. dollar price of the Japanese yen. The Yen Funds will use the 4:00 p.m., E.T. Japanese yen exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Japanese yen has been the official currency of Japan since 1871. The Bank of Japan has been operating as the central bank of Japan since 1882. The official currency code for the Japanese yen is "YEN."

As of December 30, 2011, open interest in JPY/USD futures contracts traded on the CME was approximately \$25.75 billion. JPY/USD futures contracts had an average daily trading

volume in 2011 of approximately 113,476 contracts.

Benchmark Futures Contracts Held by the Funds

All open Benchmark Futures Contracts held by the Funds will be traded on a United States exchange and will be calculated at their then current market value, based upon the last traded price before the net asset value (“NAV”) calculation time, for that particular futures contract traded on the applicable United States exchange on the date with respect to which NAV is being determined; provided, that if a futures contract traded on a United States exchange could not be liquidated on such day, due to the operation of daily limits or other rules of the exchange upon which that position is traded or otherwise, the Sponsor may in its sole discretion choose to determine a fair value price as the basis for determining the market value of such position for such day.

The Benchmark Futures Contracts trade on the following exchanges:

<u>Fund Benchmarks</u>	<u>Benchmark Futures Contracts</u>	<u>Exchange</u> ¹⁰
Australian dollar/U.S. dollar exchange rate	AUD/USD	CME
Canadian dollar/U.S. dollar exchange rate	CAD/USD	CME
European euro/U.S. dollar exchange rate	EUR/USD	CME
Japanese yen/U.S. dollar exchange rate	JPY/USD	CME
Swiss franc/U.S. dollar exchange rate	CHF/USD	CME
U.S. Dollar Index	USDIX	ICE
	CAD/USD	CME

¹⁰ Each Benchmark Futures Contract trades electronically for 21 or more hours each trading session, beginning every Sunday evening and closing for the week on the following Friday evening.

	CHF/USD	CME
	EUR/USD	CME
	GBP/USD	CME
	JPY/USD	CME
	SEK/USD	CME

Additional details regarding the Trust, Funds, Shares, trading policies of the Funds, creations and redemptions of the Shares, investment risks, fees, NAV calculation, the dissemination and availability of information about the underlying assets of the Funds, trading halts, applicable trading rules, surveillance, and the Information Bulletin, among other things, can be found in the Notice and/or the Registration Statement, as applicable.¹¹

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change to list and trade the Shares of the Funds is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹² In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,¹³ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and

¹¹ See Notice and Registration Statement, supra notes 3 and 5, respectively.

¹² In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78f(b)(5).

a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.200 and Commentary .02 thereto to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,¹⁴ which sets forth Congress’s finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information regarding the Shares will be available via the Consolidated Tape Association (“CTA”) high-speed line. The value of the Benchmarks will be disseminated by one or more major market data vendors and will be updated at least every 15 seconds during the NYSE Arca Core Trading. Data regarding the U.S. Dollar Index is also available from the Index provider to subscribers.¹⁵ In addition, an Indicative Optimized Portfolio Value (“IOPV”) for each Fund, which will be calculated using the prior day’s closing net assets of each Fund as a base and updating that value throughout the NYSE Arca Core Trading Session to reflect changes in the value of Benchmark Futures Contracts and forward contracts, if any, held by the Fund, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the NYSE Arca Core

¹⁴ 15 U.S.C. 78k-1(a)(1)(C)(iii).

¹⁵ ICE Futures U.S., Inc. compiles, maintains, determines, and weights the components of the U.S. Dollar Index. ICE Futures U.S., Inc. is not engaged in the business of trading in commodities or securities, but operates a derivatives exchange. ICE Futures U.S., Inc. maintains a code of conduct applicable to all personnel that prohibits disclosure of any confidential information obtained during the course of one’s employment and the use or disclosure of any material non-public information relating to changes to the composition of the U.S. Dollar Index or changes to the U.S. Dollar Index methodology in violation of applicable laws, rules, or regulations.

Trading Session.¹⁶ The NAV for each Fund will be calculated by the Administrator each trading day and will be disseminated daily.¹⁷ The Trust will provide website disclosure of the portfolio holdings of each Fund daily and will include, as applicable, the description and notional value (in U.S. dollars) of each Fund's investments in Benchmark Futures Contracts and forward contracts, if any, and cash equivalents and the amount of cash held by each Fund. The intraday pricing and settlement values of the Benchmark Futures Contracts held by the Funds are readily available from CME, ICE, and other public sources or on-line information services. Real-time dissemination of spot pricing for the Australian dollar, Canadian dollar, Swiss franc, euro, and Japanese yen, and data for the U.S. Dollar Index are also available from major market data vendors. In addition, the website for the Funds and/or the Exchange will contain the prospectus and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange represents that it may halt trading during the day in which an interruption to the dissemination of the IOPV, the Benchmark value, or the value of the underlying Benchmark Futures Contracts occurs. If the interruption to the dissemination of the IOPV, the Benchmark value, or the value of the

¹⁶ According to the Exchange, several major market data vendors currently display and/or make widely available IOPVs published on CTA or other data feeds.

¹⁷ The NAV per Share of each Fund will be computed by dividing the value of the net assets of such Fund (i.e., the value of its total assets less total liabilities) by its total number of Shares outstanding. The NAV calculation time for each Fund will be 4:00 p.m., E.T.

underlying Benchmark Futures Contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange may halt trading in the Shares if trading is not occurring in the underlying Benchmark Futures Contracts, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.¹⁸ In addition, the website disclosure of the portfolio composition of each Fund will occur at the same time as the disclosure by the Sponsor of the portfolio composition to authorized participants so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public website as well as in electronic files provided to authorized participants. Accordingly, each investor will have access to the current portfolio composition of each Fund through the Funds' website. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Lastly, the trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on ETP Holders¹⁹ acting as registered Market Makers²⁰ in Trust Issued Receipts to facilitate surveillance.

The Exchange has represented that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

¹⁸ With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading in the Shares will be subject to halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule in NYSE Arca Equities Rule 7.12 or by the halt or suspension of trading of the underlying Benchmark Futures Contracts. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

¹⁹ See NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

²⁰ See NYSE Arca Equities Rule 1.1(u) (defining Market Maker).

- (1) The Funds will be subject to the criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto for initial and continued listing of the Shares.
- (2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.
- (3) The Exchange's surveillance procedures applicable to derivative products, including Trust Issued Receipts, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.
- (4) The Exchange can obtain market surveillance information, including customer identity information, from ICE and CME, which are members of the Intermarket Surveillance Group.
- (5) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in "Creation Unit" size (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IOPV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and

(f) trading information. The Information Bulletin will also reference, among other things, the FINRA Regulatory Notices regarding sales practice and customer margin requirements for FINRA members applicable to leveraged exchange-traded funds (which include the Shares) and options thereon.²¹ ETP Holders that carry customer accounts will be required to follow the FINRA guidance set forth in the FINRA Regulatory Notices.

- (6) The minimum number of Shares for each Fund to be outstanding at the start of trading will be 100,000 Shares.
- (7) For the initial and continued listing of the Shares, the Funds must be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A-3 under the Act.²²
- (8) To the extent practicable, the Funds will invest in forward contracts cleared through the facilities of a centralized clearing house. In addition, with respect to investments in forward contracts, the Sponsor will attempt to mitigate the Funds' credit risk by transacting only with large, well-capitalized institutions using

²¹ See FINRA Regulatory Notices 09-31 (June 2009), 09-53 (August 2009) and 09-65 (November 2009). Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Equities Rule 9.2(a) in an Information Bulletin. Specifically, ETP Holders will be reminded that, in recommending transactions in these securities, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that members must make reasonable efforts to obtain the following information: (1) the customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

²² See 17 CFR 240.10A-3.

measures designed to determine the creditworthiness of a counterparty. The Sponsor will take various steps to limit counterparty credit risk.

This approval order is based on all of the Exchange's representations.²³

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act²⁴ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²⁵ that the proposed rule change (SR-NYSEArca-2012-04) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Kevin M. O'Neill
Secretary

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²³ The Commission notes that it does not regulate the market for futures in which the Funds plan to take positions, which is the responsibility of the Commodity Futures Trading Commission ("CFTC"). The CFTC has the authority to set limits on the positions that any person may take in futures. These limits may be directly set by the CFTC or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures, even though such limits could impact an exchange-traded product that is under the jurisdiction of the Commission.

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30-3(a)(12).